

REMARKS

Amendments to the Claims

Claims 1, 4-5, 7-9, 11, 14-25 and 27-31 remain in this application. Claim 4 is currently amended. Claims 30 and 31 are new. Claim 1 is an independent claim.

In the Office Action dated February 18, 2009, claims 1, 4, 5, 8, 11, 15-25 and 27-29 were rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent No. 3,605,837 to Lambert et al. in view of U.S. Patent No. 3,797,343 to Miller et al. and claims 7, 9 and 14 were objected to as being dependent upon a rejected base claim, but were described as being allowable if rewritten in independent form.

Applicants have made the following amendments to describe more distinctly describe the subject matter being claimed”

1. Applicants have amended claim 4 to require the roughly cylindrical housing to have an altitude and a radius where the altitude is much larger than the radius. Support for this amendment is found in Figures 1A-1B and 3A-3B. Note that the terms altitude and radius are standard terms used to describe the dimensions of a cylinder.
2. Applicants have added dependent claims 30 and 31 to provide more details of distinguishing features of the present invention. Support for

these claims is found in Figures 12A-12C and in paragraph [048] of the specification as originally filed.

In view of the amendments and the remarks that follow, Applicants respectfully assert that the claims are in a condition for allowance.

Patentability of Claim 1

Claim 1 requires: (1) a housing; (2) a bearing block attached to an end of the housing; (3) a first cutting element, the first cutting element being an eccentric disc rotatably connected to the bearing block by an axle, wherein the first cutting element is configured to rotate eccentrically, and (4) a drive mechanism adapted to be mounted at least partly within the housing and operatively connected to the first cutting element for providing torque about the axle of the first cutting element; (5) wherein the first cutting element, the axle and the bearing block are configured such that a cutting edge of the disc is exposed beyond the end of the bearing block distal to the housing for only part of the eccentric rotation. In summary, Applicants' cutting element is connected to a bearing block, where the bearing block is attached to an end of the housing and the cutting edge of the cutting element is exposed beyond the end of the bearing block distal to the housing for part of the rotation of the cutting element about the axis which connects it to the bearing block. In other words, in the claimed configuration, the cutting edge of the cutting element extends beyond both the

housing and the bearing block for part of the rotation of the cutting element. For example, see Applicants' Figs. 4-10.

In the Office Action, the Examiner states that Lambert et al. fails to disclose a housing as claimed by Applicants in claim 1. The Examiner goes on to state that Miller et al. discloses a housing in the form of safety cover 181. However, Applicants respectfully point out that the safety cover 181 in Miller et al. differs from the housing of the present invention in many ways. For example, the blade 27 in Miller et al. is NOT exposed beyond the safety cover during any part of the blade's rotation. When slicing the bar 43, the bar is introduced to the blade 27 within the safety cover 181 – the blade does NOT reach beyond the safety cover. See Miller et al. Figs. 1 and 12, col. 6, lines 35-52, col. 10, line 44 through col. 11, line 65, and col. 12, lines 41-42. In contrast, in the claimed configuration of Applicants' claim 1, the cutting edge of the cutting element is exposed beyond the housing for part of the cutting element's rotation. In conclusion, the housing of claim 1 is not disclosed by either Lambert et al. or Miller et al.

Furthermore, Lambert et al. and Miller et al. neither alone nor in combination show a cutting element connected to a bearing block, where the bearing block is attached to an end of the housing and the cutting edge of the blade is exposed beyond the end of the bearing block distal to the housing for part of the blade's rotation.

In view of the above remarks, Applicants respectfully assert that claim 1 and dependent claims are allowable over the cited art.

Patentability of Amended Dependent Claim 4

Further consideration will now be given to the patentability of dependent claim 4. Amended claim 4 requires the housing to be roughly cylindrical, where the roughly cylindrical housing has an altitude which is much larger than its radius. In the Office Action the Examiner states that Miller et al. discloses a housing which is roughly cylindrical, referring to the safety cover 181. However, the safety cover of Miller et al., if considered to be cylindrical, would have an altitude which is much less than its radius. See Miller et al. Fig. 2.

In view of the above remarks, Applicants respectfully assert that claim 4 is allowable over the cited art.

Patentability of Amended Dependent Claim 5

Further consideration will now be given to the patentability of dependent claim 5. Claim 5 requires the housing to be shaped as a handpiece. In the Office Action the Examiner states that the safety cover 181 of Miller et al. is capable of being used as a handpiece. Merriam Webster's Medical Dictionary Online provides the following definition of handpiece: the part of a mechanized device designed to be held or manipulated by hand; especially the handheld part of an electrically powered dental apparatus that holds the revolving instruments.

Furthermore, Applicants provide the example of a scalpel as a handpiece. See paragraph [0030] of the specification as originally filed. In Miller et al., the safety cover 181 is clearly not designed to be held or manipulated by hand. Furthermore, the size of the safety cover 181 is too large to function as a handpiece. (Referring to figures 1-3 and 5, and with the measurements provided by Miller et al. at col. 4, lines 39-56, the large size of the slicing machine can be calculated.)

In view of the above remarks, Applicants respectfully assert that claim 5 is allowable over the cited art.

Patentability of Amended Dependent Claim 20

Further consideration will now be given to the patentability of dependent claim 20. Claim 20 requires a second cutting element. In the Office Action the Examiner states that Miller et al. discloses a second cutting element 81. However, in Figs. 5 and 6 of Miller et al. the blade 81 is part of the vacuum head 75 which holds the bar 43 in place during slicing of the bar by the rotating blade 27. Furthermore, the blade 81 is in the form of an oval or closed loop and projects normal to the vacuum screen 79. See Miller et al. col. 6, lines 54-61. The blade 81 functions as a knife-edge for creating a vacuum seal between the vacuum head 75 and the bar 43. (Compare with a knife-edge flange which is well known in the art of vacuum sealing.) The blade 81 is not a cutting blade. In

conclusion, the blade 81 is not a second cutting element as claimed in the present invention.

In view of the above remarks, Applicants respectfully assert that claim 20 and dependent claims – new claims 30 and 31 – are allowable over the cited art.

Patentability of Amended Dependent Claim 29

Further consideration will now be given to the patentability of dependent claim 29. Claim 29 requires the cutting element to be an elliptical disc. In the Office Action the Examiner states that Lambert et al. discloses an elliptical disc. The Examiner references Fig. 2 of Lambert et al. However, in Fig. 2 Lambert et al. show a blade 14 which is described as being shaped as a spiral segment. See Lambert et al. col. 3, lines 59-60. Referring to Merriam-Webster's Online Dictionary, a spiral is defined as: the path of a point in a plane moving around a central point while continuously receding from or approaching it. In contrast, an ellipse is defined as: a closed plane curve generated by a point in such a way that the sums of its distances from two fixed points is a constant. A spiral segment is a very different shape to an ellipse, and Lambert et al. does not disclose an elliptical blade.

In view of the above remarks, Applicants respectfully assert that claim 29 is allowable over the cited art.

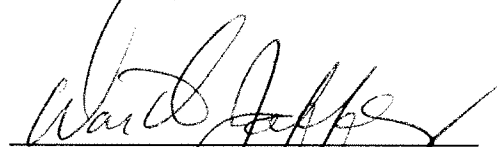
CONCLUSION

Applicants have explained the differences between the claims and the cited references, and believe the claims are in condition for allowance.

If any further questions should arise prior to a Notice of Allowance, the Examiner is invited to contact the attorney at the number set forth below.

Date: August 12, 2009

Respectfully submitted,



David H. Jaffer
Reg. No. 32,243
Customer No. 27498

PILLSBURY WINTHROP SHAW PITTMAN LLP
Intellectual Property Group
P. O. Box 10500
McLean, VA 22102
Tel. No. (650) 233-4510
Fax No. (703) 770-7901